

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56885 of 2025

Arising Out of PS. Case No.-933 Year-2022 Thana- CIVIL LINE District- Gaya

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1. Sahid Khan @ Md. Sahid Khan S/o Late Sahjahan Khan R/o - Flat No. 406, Shamshi Enclave Karimganj, P.S - Civil Line, District - Gaya
 2. Firdaus Parveer @ Firdosh W/o Sahid Khan @ Md. Sahid Khan R/o - Flat No. 406, Shamshi Enclave Karimganj, P.S - Civil Line, District - Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nazma Khatoon W/o Late Sahjahan Khan R/o Mohalla - Kathokar Talab, P.S - Civil Lines, District - Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Advocate

For the Opposite Party/s : Mr. Humayou Ahmad Khan, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 04-12-2025

Heard Mr. Pramod Kumar, learned counsel
appearing on behalf of the petitioners and Mr. Humayou Ahmad
Khan, learned APP for the State.

2. The petitioners have preferred the application under Section 528 of BNSS for quashing the order of cognizance dated 22.01.2025 passed by the learned Additional Chief Judicial Magistrate-I, Gaya in Civil Lines P.S. Case No.933 of 2022, whereby the learned Magistrate has taken cognizance under Section 504 of the Indian Penal Code against the petitioners.

3. The prosecution story, in brief, is that on



10.12.2022, Sahid Khan (petitioner no.1) and his brother namely Sabir Khan, both sons of Late Sahjahan Khan, along with Firdaus Parveen (petitioner no.2), wife of the said Sahid Khan (Petitioner no.1), and Mazia Khatoon, wife of the said Sabir Khan, forcibly took away ornaments and a sum of Rs. 1,00,000/-. When the informant's younger son attempted to restrain the aforesaid persons from removing the ornaments and cash from the *almirah*, they allegedly assaulted him, as well as, the wife and daughter of the informant. It is further alleged that the accused persons named in the F.I.R. have been attempting to dispossess the younger son from the residence and shop and are even seeking to dispossess the informant from her home. The informant asserts that she, her younger son, and her daughters, apprehend danger to their lives at the hands of the accused persons. Based on the written report of the informant, an FIR was registered on 11.12.2022 at 9:00 a.m. as Civil Lines P.S. Case No. 933 of 2022.

4. Learned counsel appearing on behalf of petitioners submitted that as per the basic ingredient of Section 504 IPC, the petitioners can't be said to have intentionally given provocation, as such, the offence is not made out against the petitioners for the allegation as alleged in the FIR. Learned



counsel further submitted that the petitioners are ready to file written apology to her mother (O.P. No.2) and other family members who have got offended by the alleged illegal action of the petitioners, to buy peace and maintain harmony in the family. Learned counsel further submitted that the O.P. No.2 is a widow of late Md. Sahjahan Khan, who has died leaving behind him 5 sons and 5 daughters along with grandchildren. The petitioner no.1 is the eldest among all the brothers. On the alleged date of occurrence according to the petitioners, the parties were negotiating to partition the property including the iron scrap shop. Learned counsel submitted that in support of the same, information is contained in para-7 of the quashing application. While they were negotiating, all the family members including the petitioners engaged in hot talk leading to some misbehavior on the part of the petitioner no.1 with his mother (O.P. No.2).

5. I find to analyze, as to whether, the Magistrate on the basis of the material and evidences before him has given consideration to the same or not? The intentional insult is one of the ingredients to attract Section 504 of the Indian Penal Code. The ingredients of Section 504 of IPC were explained by the Apex Court in case of *Mohd. Wajid v. State of U.P.*, reported in



(2023) 20 SCC 219 as under:-

“29. Section 504 IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the section merely because the insulted person did not actually break the peace or commit any offence having exercised self-control or having been subjected to abject terror by the offender.

30. In judging whether particular abusive language is attracted by Section 504 IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.”

6. In the present case, I don't find that there is any intentional provocation when the parties were negotiating for partition of property including the iron scrap shop as claimed by the petitioner no.1 to be owned by him. The commission of the offense cannot be said that petitioner no.1 has intentionally insulted his mother (O.P. No.2), more so, the same has not resulted into breach of public peace or any other offense as alleged by any other person against the petitioners. The



petitioner no.1 has admitted that he has ill behaved with his mother and he is ready to file his written apology. In such circumstances, in absence of any ingredient of Section 504 Indian Penal Code, I find that the petitioners must not be subjected to face the criminal prosecution and keeping the present quashing application pending will not serve the purpose. In this regard, law is well settled in case of ***State of Haryana and Ors. v. Bhajan Lal and Ors.*** reported in ***1992 Supp. (1) SCC 335***, in which the Apex Court has held as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.”

(3) Where the un-controverted allegations made in the FIR or complaint and evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegation in the FIR



do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a magistrate as contemplated under section 159 (2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code of the concerned act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge"

7. In view of the aforesaid facts and circumstances of the case and the law laid down by the Apex Court, the order taking cognizance dated 22.01.2025 passed in Civil Lines P.S. Case No. 933 of 2022 by the learned ACJM-I, Gaya is set aside and quashed.

8. At the same time, I find that O.P. No.2 is 70 years old lady and in accordance with the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007**, the O.P. No.2 can avail the remedy, if in future the petitioners subject her to any cruelty or for any allegation which is maintainable under the said Act.



9. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
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